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# **Cost of Capital Punishment: The Enormous Evidence Against the Death Penalty**

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## **Writer's Statement**

While thousands of years old, execution is still a very relevant topic today. It is something that I have been passionate about for years. I first wrote about the issues surrounding the death penalty when I was in 8th grade and have continued researching it ever since. I believe it to be a glaring problem within our justice system that often gets very little attention. When I was told that our final project in UN1015 would be to write a journal article, I knew that this would be my topic immediately. There are many facets to the capital punishment debate, and I have focused on what I believe are the five more important issues. Those are prejudice, costs, deterrence, innocence, and closure.

## **Introduction**

Few issues divide Americans more deeply than capital punishment. Supporters claim that the death penalty delivers justice and prevents future crimes, while critics argue that it is unfair, costly, and ineffective. Even people who once supported the practice have begun to question its purpose. Justice Harry Blackmun, after years on the U.S. Supreme Court, concluded that the death penalty experiment has failed. His words reflect the growing realization that the system does not always serve justice but instead exposes its deep flaws. "I yield to no one in the depth of my distaste, antipathy, and, indeed, abhorrence, for the death penalty... That distaste is buttressed by a belief that capital punishment serves no useful purpose that can be demonstrated." (Blackmun, 1972). This quote from Justice Blackmun shows that even those who once supported the death penalty realized its immorality.

Capital punishment has a long history in the United States. Since the 1970s, there have been 1,647 executions throughout 34 states. As of April 2025, there were 2,067 prisoners on death row and capital punishment was legal in 27 states (DPIC, 2025). A 2010 poll by Lake Research Partners showed that 61% of voters would choose a punishment other than the death sentence for murder (DPIC, 2016). Capital punishment, also known as "judicial homicide", has been on the decline for the past few decades (DPIC, 2025). But what has caused the shift in opinion on the death penalty? Numerous studies have been done throughout the past few decades about the influences the death penalty system has on society, ranging from discrimination within the justice system to the economic burden of capital punishment.

Despite how the death penalty has been framed as the ultimate justice, its harm far outweighs its good. Capital punishment should be abolished in the United States because it fails to deliver justice or deterrence, imposes irreparable harm through wrongful convictions, disproportionately targets marginalized groups, delays closure for the families of victims, and undermines the moral and financial integrity of the justice system. To understand why the death penalty persists despite evidence of its failures, the systems that sustain it must first be examined.

## **The Judicial System is Discriminatory**

One of the biggest problems with the death penalty is how unevenly it is applied. There is a large amount of discrimination involved in judicial homicide, with the most significant disparity in the races of the victims. The Death Penalty Information Center (2016), a non-profit that aims to provide analysis on issues surrounding capital punishment, found that more than 75% of victims in cases resulting in a death sentence were White, even though nationally only 50% of murder victims are White. This domination of one demographic, specifically White victims, clearly shows the targeted discrimination evident throughout the justice system, and the way some lives are valued over others.

Many more researchers have investigated the effects of discrimination on capital sentencing around the country. A study done in the state of Washington showed that juries were three times more likely to sentence a Black defendant to death compared to a White defendant in a similarly situated case (Beckett & Evans, 2014). The same study also found that even though prosecutors were less likely to be influenced by race compared to juries, they were almost three times more likely to seek execution in cases that received extensive publicity (Beckett & Evans, 2014). This is a blatant misuse of the justice system, using human life as a tool to gain public favor. Sadly, there are many examples of where race has played a major role in a capital sentencing trial.

One of the most notable examples is the Supreme Court Trial, *Buck v. Davis*, which was decided in 2017. Duane Buck had been convicted of capital murder in Texas in 1995 for double homicide, and sentenced to death (Arriaga, 2017). During his trial, Buck's attorney called a psychologist to write a report and testify on whether Buck was likely to commit acts of violence in the future. Although the psychologist concluded that Buck was unlikely to be a future danger, he testified that Buck was statistically more likely to act violently because he is Black, stating that race is a factor "known to predict future dangerousness" (U.S. Supreme Court, 2017). This is an incredibly harmful stereotype that has existed within and outside of the justice system since its creation.

Buck argued that his attorney's introduction of the report and witness violated his Sixth Amendment right to the effective assistance of counsel. The Supreme Court agreed, and Buck's sentence was reduced to life in prison (Arriaga, 2017). Unfortunately, this was not an isolated event. During Buck's appeals process, the Texas Attorney General identified five other similar cases in which the psychologist had testified on race's effect on dangerousness (U.S. Supreme Court, 2017). This is a very obvious example of how race and discrimination can affect the outcome of a capital trial. There are many more cases out there, most of which with prejudice that is much more subtle and difficult to prove.

There is more to discrimination than just race though. One of the most common forms of inequity within judicial homicide is in the gender of the defendant. It probably does not come as a surprise that people are squeamish about the idea of executing women; as one judge stated: "I don't think there's any rational or objective thought about it, but there's a feeling that incarceration for a woman is far more degrading than for a man" (Shapiro, 2000). As of 2014, women had only made up 2% of the death row population (DPIC, 2016) even though about 11.7% of known murders in 2014 in the U.S. were committed by women (FBI, 2014). Even when women are sentenced to death, their sentences are often changed to life imprisonment. There is no way to get around this substantial disparity; people view women differently from men and that is unlikely to ever change.

It is no secret that the justice system is also financially discriminatory, particularly within capital cases. While it is law that defendants are entitled to an attorney, there is a big difference

between the poorly paid court-appointed lawyer and the skilled prosecutors who receive the help of the police. Unsurprisingly, defendants represented by court-appointed attorneys are over twice as likely to receive a capital sentence compared to those represented by private attorneys or public defenders (Costanzo, 2002). The idea that the system that decides who lives and who dies is associated with monetary status for proper representation is abhorrent. As Shapiro (2000) says, “The people of the United States are unable to apply the death penalty fairly. This is not a failing of the people, but rather of the process.” If the law cannot be applied impartially, then surely its supposed purpose of deterrence holds true.

### **Capital Punishment Does Not Deter Murder**

Another major factor when considering the death penalty is its deterrent effect on murder. Many of the people who favor the use of capital punishment over life imprisonment argue that executions can prevent future murders. Numerous studies have been conducted in an attempt to prove that the idea of a death penalty deters murder from happening, but it is virtually impossible to completely isolate the effects of capital punishment on criminals’ mindset, and there are countless other variables that need to be considered. These variables can include the population, time period, per capita income, and unemployment rates, to name a few (Ehrlich, 1973). Dr. Lamperti (2010) writes “if there were a substantial net deterrent effect from capital punishment under modern U.S. conditions, the studies we have surveyed should clearly reveal it. They do not.” Without proof, one cannot assume the effect that something has on society; the same way that people cannot claim that a new drug prevents a disease without rigorous testing. Experts have been studying the death penalty for decades, and no one can definitively say that executions prevent murders. All the while, continuing to assume so will only cause further harm.

Overall, a survey of experts from the country’s top academic criminological societies showed that 88% reject the idea of capital punishment as a deterrent to murder (DPIC, 2016) and a 2009 poll of police chiefs ranked the death penalty last among ways to reduce violent crime (DPIC, 2025). The idea that executing people averts murder is misguided and outdated. If the death penalty cannot prevent crime, then what justification remains for its immense financial costs?

### **The Death Penalty is Too Expensive to Justify**

An unexpected factor in the argument to abolish the death penalty is the high costs. Many people believe that a death sentence would be cheaper compared to life imprisonment, considering the state would no longer have to care for the prisoners. This might be true if the costs were measured at the time of execution, but the actual price of a death penalty case begins long before that.

The Supreme Court has consistently upheld the idea that death is different, meaning that every aspect of a capital trial is longer and more thorough compared to a non-capital trial. As a result, capital trials require more time for the defense and prosecution to gather evidence, more complex pretrial motions, and a separate sentencing phase. Also, with so much at stake, more retrials and appeals will likely occur after sentencing (Tabak & Lane, 1990). For example, “the death penalty cost California \$90 million annually beyond ordinary expenses of the justice system, of which \$78 million was incurred at the trial level” (Dieter, 2015). In New Jersey, the high costs were one component of the state’s decision to abolish capital punishment. Over a 25-year period, the state spent \$235 million despite not having any executions (Dieter, 2015). On average, a single death penalty inmate costs approximately \$1.12 million more than a general population inmate (McFarland, 2016). Despite the high toll continually paid, the reality is that most capital cases do not result in a death sentence and that most death sentences do not

result in an execution. The costliness of the death penalty might be defensible if it guaranteed accurate convictions, but there are cases that show otherwise.

### **The Risk of Wrongful Executions**

Although it is uncommon, there have been occurrences when defendants have been found innocent after they have been sentenced to death or even executed. People can argue all day on whether murderers deserve to be executed, but there is no rectifying these mistakes which cost innocent people their lives. It only further proves that capital punishment is unsuited to the modern judicial system.

One such case is of a man named Jimmy Dennis. In 1992, Dennis was found guilty of the murder of 17-year-old Chedell Williams and was given the death penalty. His sentence was overturned in 2017 after 25 years on death row due to three Brady violations, which is when the prosecution withholds evidence that benefits the defense. The first was that Chedell's friend, who was with her at the time, told the police that she recognized two of her classmates in the murder, but the prosecution never investigated this. The second was that a resident of the county correction facility reached out to the police after one of the offenders called to brag about committing the murder. Lastly, the state had a receipt that established Dennis's alibi. These were all purposely kept from the defense (Muse, 2021). Dennis had two little girls at home. He missed out on 25 years of their life.

Sometimes the evidence is revealed too late, such as in the case of Carlos DeLuna. DeLuna was 20 when he was arrested for the murder of Wanda Lopez. Eyewitnesses in the gas station had described "a Hispanic male wearing a gray sweatshirt." When DeLuna was brought in, he told the police that the perpetrator was Carlos Hernandez, a friend of his who looked so similar they were often mistaken as twins. They had been together earlier in the night, before Hernandez split off to go to The Shamrock, where Lopez had been working. During DeLuna's trial, the police denied Hernandez's existence, claiming he was "a figment of DeLuna's imagination." DeLuna was executed on December 7, 1989.

Six years after the execution, Professor Leibman of Columbia University began one of the most in-depth reviews ever performed of a death penalty case. Within a day he found Carlos Hernandez, who had been arrested over 35 times. Leibman also found crime scene photos that had not been revealed to the jury. They showed the scene covered in blood, including a bloody footprint belonging to the killer. Not a single speck of blood was found on DeLuna's clothes (Liebman et al., 2014).

Liebman then tracked down the eyewitness who saw the perpetrator leaving the store and asked how certain he was in his identification. "He said about 70 percent but then added that had the police not told him that they found DeLuna hiding under a truck two blocks away that he would have been only 50 percent certain" (MTIP, 2021). Edwin Grimsley (2012), a case analyst for the Innocence Project, writes, "In total, nearly 75% of the DNA exoneration cases involve an eyewitness misidentification – approximately 42% of which are cross-racial misidentifications." There is no shortage of careless mistakes that have cost people their lives. Since 1973, there have been 202 cases in the U.S. where individuals convicted and sentenced to death have been exonerated (DPIC, 2025). And even when the right person is convicted, the death penalty still fails to deliver closure or healing.

### **The Myth of Closure for Victims' Families**

One of the main arguments in support of the death penalty is the closure it provides to families of the victims. While every case is different, there are many instances where an

execution is more emotionally taxing than a sentence of life imprisonment without the possibility of parole. One reason is the long appeals process that usually takes place after a conviction. Appeals are formal requests to a higher court to change a lower court's decision. They generally focus on legal errors, not the facts of a case.

A paper published in the *Marquette Law Review* studied survivors' experiences in Texas, a death penalty state, and Minnesota, a life without the possibility of parole state. In the study, families were interviewed throughout the appeals process. One mother in Texas described her frustration with the system: "We haven't had a sense of justice. I feel like my life is on hold because it just hasn't been carried out... When is it gonna be over?" (Armour & Umbriet, 2012). Another made comments about not knowing who to believe throughout the process. "Now it's just waiting. I get frustrated at that. In my mind there's a possibility he might be set free if they've lost the evidence. [Prosecutor] Joe Michales says, 'Oh no, they won't do the whole trial. They do pieces.' I don't trust him because they haven't told me the same story as the D.A.'s office" (Armour & Umbriet, 2012).

In the end, Armour and Umbriet (2012) repeatedly found that a sense of control throughout the appeals process was the best association to survivor well-being instead of some unrealistic ideal of closure. Control, which is oftentimes found times lacking in death penalty cases. In Minnesota, where life imprisonment is used, survivors had greater control. This was likely because the appeals process was predictable and completed within two years. In Texas, however, the process was drawn out, elusive, and unpredictable. It generated feelings of injustice, powerlessness, and in some instances, fear. Although the grief remained high for Minnesotans, no longer having to deal with the murderer, or the criminal justice system, allowed the survivors' control and energy to be put into the present for healing.

## **Conclusion**

What can be done about crimes that have shattered one's view of the world? Revenge is no real help, but what sort of action is? None that is directed toward undoing the past; the death penalty cannot undo what has been done. Only purposeful action directed toward the future can ever help. If the death penalty offers neither fairness, deterrence, nor closure, its moral foundation collapses.

In the United States, the justice system is built on the essential idea of reformation and rehabilitation. The idea that people can grow from their mistakes and feel remorse for what they have done. Armour and Umbriet (2012) found that some participants thought they might feel differently about the murderer if they expressed remorse, or that said remorse might even aid in the participant's own healing. That option is eliminated when the death penalty is involved. A justice system that values life and fairness must find its strength not in execution but in empathy and reform.

Therefore, the most sensible decision is to abolish the death penalty and replace it with life imprisonment with or without the possibility for parole. It is already common for death penalty states to require that anyone not sentenced to death for first-degree murder must serve a sentence of life imprisonment. Several states have completely abolished capital punishment and replaced it with a life sentence in cases of first-degree murder (Appleton & Grover, 2007). It is the logical conclusion to encourage the rest of the country to transition to life imprisonment. This would enable a reduced financial burden, eliminate the risk of wrongfully executing defendants, executing defendants based on prejudice, and potentially provide a better chance of closure for victims.

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